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19 MAR 2007

In re Application of	:	
Most et al.	:	
Application No.: 10/572,416	:	DECISION
PCT No.: PCT/EP04/09621	:	
Int. Filing Date: 28 August 2004	:	ON
Priority Date: 18 September 2003	:	
Attorney Docket No.: 7601/88086	:	PETITION
For: Process For The Production Of Alpha-Hydroxy-	:	
Beta-(P-Hydroxyphenyl) Propionic Acid Derivatives	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed on 17 January 2007.

#### **BACKGROUND**

This international application was filed on 28 August 2004, claimed an earliest priority date of 18 September 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 24 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 March 2006 (since 18 March 2006 was a Saturday). Applicants filed, *inter alia*, an authorization to charge the basic national fee on 16 March 2006.

#### **DISCUSSION**

Petitioner requests that

the enclosed papers... be accepted as the National Stage of PCT/EP2004/009621 and accorded a filing date of March 16, 2006. The enclosed papers, which comprise a complete copy of the undersigned's file, were originally filed on that date, but no filing receipt has been received and, after conversations with U.S.P.T.O. officials, it appears likely that the application papers have been misplaced or lost by the U.S.P.T.O.

Review of the records of the USPTO reveals that the instant application is the national stage filing under 35 U.S.C. 371 of international application PCT/EP04/09621. Further review reveals that the following correspondence was filed on 16 March 2006 and associated with this application file:

Transmittal Letter, 4 pages  
General Authorization ... 1.136(a)(3), 1 page  
Specification, 9 pages  
Claims, 2 pages  
Abstract, 1 page  
Preliminary Amendment, 3 pages  
Application Data Sheet, 4 pages  
General Authorization (fees), 1 sheet

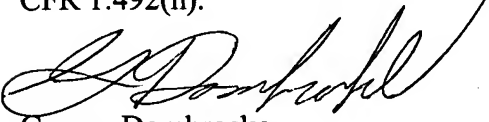
Also filed on 16 March 2006, and present in the Image File Wrapper (IFW) for this application, were a copy of the published international application, a copy of the Written Opinion of the ISA (Form PCT/ISA/237), a copy of Form PCT/IB/304, a copy of Form PCT/IB/308, a copy of Form PCT/IB/371, a copy of a PCT Request Form, and a copy of a declaration under PCT Rule 4.17(iv). As such, petitioner's request is **MOOT**.

It is noted that the declaration under PCT Rule 4.17(iv) is defective in that it did not properly identify the international application to which it was directed. Specifically, the only indication of the international application number appears to be that stamped by the International Bureau (IB) subsequent to the filing of the declaration on 25 October 2004. Since the declaration did not accompany the filing of the international application on 28 August 2004, and since it appears not to have identified the international application number to which it was directed as of the time it was executed, it is defective. Moreover, it is also defective in that it was not executed by Pavol JAKUBEC.

### **DECISION**

The petition is **DISMISSED AS MOOT**, to the extent noted above.

This application was being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).



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